

(SD-FO-218) USE OF PUBLIC FOOTPATH FOR THE DISPLAY OF GOODS

Section 68 Local Government Act 1993

Attachment A - Extract from Council's Use of Council Footpaths (UD-CP-201) public policy. Full policy is available from Council's website.

4.3 Display of Goods

Where it is proposed to use Council's footpath for the display of goods incorporating the placement of merchandising racks and trade tables an Activity Application is to be made to Council and determined in accordance with the provisions of Local Government Act, 1993. Any such approval will be subject to compliance with the provisions set down in 4.3.1 of the Policy and will be subject to conditions including, but not limited to, annual agreement where the payment of fees is based on the dimensions of the area approved by Council and written indemnification against action or claims against Council included in Public Liability Insurances.

Approval will only be given where in the opinion of Council there is adequate area for pedestrian circulation and safe lines of sight and where the use is considered to contribute positively to the proposed character of the area and streetscape.

Where heritage values are applicable, street use and styling of street furniture shall be complementary to the heritage values.

If operation of the business is found to cause undue inconvenience or disruption to pedestrian and traffic circulation or the adjoining premises, Council may take steps to terminate the licence.

Where compliance cannot be achieved due to the circumstances of the case, a development application is to be made to Council and determined in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

4.3.1 Controls

a) Council will consider the following matters in determining the application:

- (i) Suitability of goods for open display: Whether products may be considered offensive in a manner from accepted social, moral, religious and cultural perspective.
- (ii) Safety aspects of display: Whether the proposed display and sale of goods is likely to cause a safety hazard for pedestrians or detrimentally affect the amenity of the surrounding area or cause damage to footways.
- (iii) Stability: Any display structures with wheels must incorporate a locking device for safety and stability.
- (iv) Public health requirements: Display and sale of food items must meet all requirements of the relevant health legislation (eg. safe storage, appropriate temperature regulation, etc).

b) Approval permits the use of the footpath adjacent to the business premises. The display must not extend further than 1 metre from the existing shop front and be restricted to the length of the street boundary of the premises unless otherwise agreed by Council and stated on the licence permit.

c) A minimum clear width of 2.6 metres must be obtained for pedestrians at all times without obstructions from urban features including street trees, bins, street furniture and signs.

d) Empty boxes or disused packaging must not remain on the footway area or be rested against Council's litterbins, trees or other street furniture. Failure to remove waste may result in the termination of licence.

e) All outdoor furniture is to be stored away from the public area and off public land outside the hours of operations as approved of the current business.

f) The day-to-day operation of a business in a licensed street trading area is the responsibility of the proprietor/ permit holder and the use is at the permit holder's own risk. It is their responsibility to ensure good management practices occur, and the permit holder must:

- (i) Operate the business in accordance with principles outlined in this policy and conditions of license agreement;
- (ii) Manage the furniture and features within the designated approved area, and ensure furniture is returned to position when moved by customers;
- (iii) Monitor behaviour of customers and ensure courtesy is extended to both the general public and surrounding occupants in terms of noise and social behaviour;
- (iv) Observe all legal requirements and laws relating to the business;
- (v) Maintain access in and around the site with consideration that the occupied space is publicly owned space;
- (vi) Comply with all requests made by Council's Planning and Compliance Officers, both formal and informal during the course of the daily operation of the business.

g) All goods for sale must be established well clear of driveway access points and routes for emergency vehicles;

h) Display stand(s) must be:

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- (i) Stable, and in the case of inclement weather conditions be removed from the footpath;
 - (ii) Constructed of metal or solid timber construction and of a colour harmonious to the surrounds;
 - (iii) High presentation quality and appearance;
 - (iv) Fit for purpose; and
 - (v) Suitably finished so that no damage is caused to Council's pavements.
- i) Displays must be placed immediately against the front wall of the approved business;
- j) Displays must not exceed 1 metre in width or extend beyond the common boundary between adjacent shops;
- k) The permit holder shall be permitted to display goods and place display stands within the approved trading area only during the hours that the business premises is open. All display stands, racks, containers and goods must be removed from the footway and stored within the business premises after business hours;
- l) No temporary containers, milk crates, cardboard boxes, packing cases, packing material or similar receptacles are to be used at any time;
- m) Goods, boxes or packing material are not to be stored above or under the display, or stored anywhere outside the approved trading area. All empty or disused boxes must be removed from footway area and stored or disposed of in private garbage bins;
- n) No goods shall be placed directly upon the ground;
- o) Full supervision and control must be readily available from the licence holder, proprietor or employees;
- p) The placement of food, perishables or produce of any type within the approved area must comply with health regulations, legislation and requirements;
- q) Displays and goods must not hang from awnings or be attached to the shop fronts;
- r) The permit holder will only be permitted to sell goods that are available from the subject business;
- s) The projection of amplified music, spruiking, live or taped advertising material into the street is not permitted;
- t) Any repair or maintenance works to be carried out on the footpath by Council will take precedent over the approval for commercial use. The approval will be suspended during any such work on the footpath and the Licence Holder will be given reasonable period of notice in advance;
- u) The display of the following items are prohibited:
- (i) Cooking or preparation of food;
 - (ii) Breakable items such as glass, china ware and bottled liquids;
 - (iii) Offensive materials;
 - (iv) Computer games, vending machines, pinball machines and the like;
 - (v) Large items of household furniture and whitegoods;
 - (vi) Liquor products, beers, wines or the like, tobacco products or drugs of any type including scheduled medicines; and
- v) The following are general conditions of a standard licence agreement:
- (i) The approved area shall not be utilised by anyone other than the permit holder;
 - (ii) The permit holder shall pay a fee to Council on the first day of each financial year. Council will issue notification and request for updated Public Liability insurance prior to this time. Public liability insurance is to be for a minimum value of \$20 million, with Griffith City Council noted as an interested party. Council reserves the right to review fees at any time;
 - (iii) The licence holder shall be responsible for any damage caused to Council's footway by the installation, maintenance and/or removal of the outdoor furniture or facilities, and will bear all costs to repair and make good to existing;
 - (iv) A copy of the licence agreement must be kept on the premises, and is to be produced on request by Council's officers. The permit sticker must be displayed in a prominent position in the front window of the premises at all times;
 - (v) Licence agreements are to remain with the property.
 - (vi) Failure to comply with any of the requirements of this policy or conditions of the approval may result in the termination of the approval. Any breach of safety must be rectified immediately as non-compliance will result in immediate loss of permit.
- In the event that Council cancels the approval then it may be cancelled by notice in writing by the Council to the Licence Holder given at any time on receipt of which the Permit Holder must remove all material from the footway and shall have no other rights under the agreement. If the furniture is not removed and the public place is not reinstated to its original condition within a period specified by Council, works will be carried out at the licence holder's expense;

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(vii) If the conditions of the licence are to be varied, the necessary documentation must be submitted to Council requesting the change and giving appropriate reasons for the request. Depending on the extent of the requested change, referral to Council staff for assessment and payment of reassessment fees may be required. If Council staff agrees to the amendments, the licence must then be amended and re-signed prior to any changes being made to the street trading area.

4.3.2 Application Requirements

- a) Where the display of merchandising racks and trading tables comply with the provisions of clause 4.3.1 of this policy applicant shall lodge a completed Activity Application with Council which shall be accompanied with the following:
- (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath.
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the merchandise rack and/or display table; and details of the style, type and colour of the street furniture; and
- b) Where the display of merchandising racks and trading tables do not comply with the provisions of clause 4.3.1 the applicant shall lodge a completed development application with Council which shall be accompanied with the following:
- (i) Owner's consent from the land owner of the premises and Griffith City Council as the owner of the footpath. Should the siting of any tables and chairs extend beyond the boundary of the site, then owner's consent is also required from the neighbouring properties;
 - (ii) Payment of the prescribed fee;
 - (iii) Detailed plans of the footpath, showing the siting of the merchandise rack and/or display table; and details of the style, type and colour of the street furniture; and
 - (iv) A statement of environmental effects which is also to include justification for the variation to the requirements of the policy.
- c) Where approval is granted evidence of a current public liability insurance cover (minimum \$20 million) is to be provided which must indemnify Council.
- d) The approval will be limited to a maximum 36 months at which time a new application is to be lodged with Council. Applications for renewal should be lodged with Council at least 4 weeks prior to any approval lapsing.
- e) The fees payable under 4.3.2(a)(ii) and (b)(ii) above are adopted by Council annually and published in Council's Revenue Policy.